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 7 dba UKIAH AUTO DISMANTLERS and WAYNE HUNT

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10  
 11 PINOLEVILLE POMO NATION, ) Case No. C 07-02648 SI  
 12 PINOLEVILLE POMO NATION )  
 13 ENVIRONMENTAL ASSOCIATION and )  
 14 LEONA WILLIAMS, ) DEFENDANT WAYNE HUNT'S ANSWER  
 15 Plaintiffs, ) TO COMPLAINT FOR INJUNCTIVE  
 16 v. ) RELIEF, CIVIL PENALTIES,  
 17 UKIAH AUTO DISMANTLERS, WAYNE ) RESTITUTION, REMEDIATION AND  
 18 HUNT, ISABEL LEWRIGHT, WARRIOR ) DAMAGES  
 19 INDUSTRIES, INC., RICHARD )  
 20 MAYFIELD, ROSS JUNIOR MAYFIELD, )  
 21 PAULA MAYFIELD, KENNETH HUNT, )  
 22 U.S. ALCHEMY CORPORATION and )  
 23 DOES 1-50, Inclusive, )  
 24 )  
 25 Defendants. )  
 26 )  
 27 )

28 Comes now, WAYNE HUNT ("HUNT") answers the Complaint for injunctive relief,  
 29 civil penalties, restitution, remediation and damages filed by plaintiffs PINOLEVILLE  
 30 POMO NATION, PINOLEVILLE POMO NATION ENVIRONMENTAL ASSOCIATION,  
 31 and LEONA WILLIAMS as follows:

32 1. In response to the allegations HUNT admits that Plaintiffs have brought this  
 33 action under the citizen-suit provisions of the Clean Water Act and RCRA. HUNT denies

1 each and every other allegation of paragraph 1.

2 2. HUNT denies each and every allegation contained in Paragraph 2.

3 3. HUNT denies each and every allegation contained in Paragraph 3.

4 4. HUNT admits that Plaintiffs seek the relief requested.

5 5. HUNT admits that Plaintiffs seek the relief cited, except as expressly admitted  
6 herein, HUNT denies each and every other allegation contained in Paragraph 5.

7 6. HUNT has insufficient knowledge or information to form a belief as to the  
8 truth of the allegations in Paragraph 6, and on such basis denies each and every allegation  
9 contained therein.

10 7. HUNT has insufficient knowledge or information to form a belief as to the  
11 truth of the allegations in Paragraph 7, and on such basis denies each and every allegation  
12 contained therein.

13 8. HUNT has insufficient knowledge or information to form a belief as to the  
14 truth of the allegations in Paragraph 8, and on such basis denies each and every allegation  
15 contained therein.

16 9. HUNT has insufficient knowledge or information to form a belief as to the  
17 truth of the allegations in Paragraph 9, and on such basis denies each and every allegation  
18 contained therein.

19 10. In response to Paragraph 10, HUNT admits that he is a majority shareholder  
20 in defendant U.S. ALCHEMY CORPORATION and that his address is 500-D Pinoleville  
21 Drive, Ukiah, California 95482. Except as expressly admitted herein, HUNT denies each  
22 and every other allegation of Paragraph 10.

23 11. HUNT has insufficient knowledge or information to form a belief as to the  
24 truth of the allegations in Paragraph 11, and on such basis denies each and every allegation  
25 contained therein.

26 12. In response to Paragraph 13, HUNT admits that the text of the provisions can

1 be identified from the provisions, except as expressly admitted herein, HUNT denies each  
2 and every other allegation of paragraph 13.

3 13. In response to Paragraph 14, HUNT admits that the text of the provisions can  
4 be identified from the provisions, except as expressly admitted herein, HUNT denies each  
5 and every other allegation of paragraph 14.

6 14. In response to Paragraph 15, HUNT denies each and every allegation  
7 contained therein.

8 15. In response to Paragraph 16, HUNT admits the allegations contained therein.

9 16. In response to Paragraph 17, HUNT admits that the text of the documents  
10 referred to can be identified from the referenced documents. Except as expressly admitted  
11 herein, HUNT denies each and every other allegation contained in Paragraph 17.

12 17. In response to Paragraph 18, HUNT denies each and every allegation  
13 contained therein.

14 18. In response to Paragraph 19, HUNT admits the allegations contained therein.

15 19. In response to Paragraph 20, HUNT admits that he has filed a notice with the  
16 RWQB to be covered by the General Permit. Except as expressly admitted herein, HUNT  
17 denies each and every other allegation contained in Paragraph 20.

18 20. In response to the statements in Paragraph 21, HUNT acknowledges that the  
19 statements are generally correct as a matter of general application. Except as expressly  
20 admitted herein, HUNT denies each and every other allegation contained in Paragraph 21.

21 21. In response to the statements in Paragraph 22, HUNT acknowledges that the  
22 statements are generally correct as a matter of general application. Except as expressly  
23 admitted herein, HUNT denies each and every other allegation contained in Paragraph 22.

24 22. In response to the statements in Paragraph 24, HUNT acknowledges that the  
25 statements are generally correct as a matter of general application. Except as expressly  
26 admitted herein, HUNT denies each and every other allegation contained in Paragraph 24.

1       23. In response to Paragraph 25, HUNT denies each and every allegation  
2 contained therein.

3       24. In response to Paragraph 26, HUNT denies each and every allegation  
4 contained therein.

5       25. In response to Paragraph 27, HUNT denies that plaintiffs are entitled to  
6 impose civil penalties or that plaintiffs have established the basis for equitable relief, and  
7 furthermore denies each and every allegation contained therein.

8       26. In response to Paragraph 28, HUNT denies each and every allegation  
9 contained therein.

10       27. In response to Paragraph 29, HUNT denies each and every allegation  
11 contained therein.

12       28. In response to Paragraph 30, HUNT denies each and every allegation  
13 contained therein.

14       29. In response to Paragraph 31, HUNT denies each and every allegation  
15 contained therein.

16       30. In response to Paragraph 32, HUNT denies that plaintiffs are entitled to  
17 impose civil penalties or that plaintiffs have established the basis for equitable relief, and  
18 furthermore denies each and every allegation contained therein.

19       31. In response to Paragraph 34, HUNT admits that the text of the document  
20 referred to can be identified from the document. Except as expressly admitted herein,  
21 HUNT denies each and every other allegation contained in Paragraph 34.

22       32. In response to Paragraph 35, HUNT admits that the North Coast Regional  
23 Water Quality Control Board and the Mendocino County Department of Health, along  
24 with other agencies, regulate the activities of the general public, including Hunt. Except  
25 as expressly admitted herein, HUNT denies each and every other allegation contained in  
26 paragraph 35.

1           33. In response to Paragraph 36, HUNT admits the allegations contained therein.

2           34. In response to Paragraph 37, HUNT denies each and every allegation  
3 contained therein.

4           35. In response to Paragraph 38, HUNT denies each and every allegation  
5 contained therein.

6           36. In response to Paragraph 40, HUNT admits that the text of the document  
7 referred to can be identified from the document, except as expressly admitted herein,  
8 HUNT denies each and every other allegation contained therein.

9           37. In response to Paragraph 41, HUNT denies each and every allegation  
10 contained therein.

11           38. In response to Paragraph 42, HUNT denies each and every allegation  
12 contained therein.

13           39. In response to Paragraph 43, HUNT denies each and every allegation  
14 contained therein.

15           40. In response to Paragraph 44, HUNT has insufficient knowledge or  
16 information to form a belief as to the accuracy of the allegations contained therein, and on  
17 such basis denies each and every allegation contained therein.

18           41. In response to Paragraph 45, HUNT has insufficient knowledge or  
19 information to form a belief as to the accuracy of the allegations contained therein, and on  
20 such basis denies each and every allegation contained therein.

21           42. In response to Paragraph 46, HUNT has insufficient knowledge or  
22 information to form a belief as to the accuracy of the allegations contained therein, and on  
23 such basis denies each and every allegation contained therein.

24           43. In response to Paragraph 47, HUNT denies each and every allegation  
25 contained therein.

1       44. In response to Paragraph 49, HUNT denies each and every allegation  
2 contained therein.

3       45. In response to Paragraph 50, HUNT denies each and every allegation  
4 contained therein.

5       46. In response to Paragraph 51, HUNT denies each and every allegation  
6 contained therein.

7       47. In response to Paragraph 52, HUNT denies each and every allegation  
8 contained therein.

9       48. In response to Paragraph 53, HUNT denies each and every allegation  
10 contained therein.

11       49. In response to Paragraph 55, HUNT denies each and every allegation  
12 contained therein.

13       50. In response to Paragraph 56, HUNT admits that the text of the document  
14 referred to can be identified from the document, except as expressly admitted herein,  
15 HUNT denies each and every other allegation contained in Paragraph 56.

16       51. In response to Paragraph 57, HUNT admits that the text of the document  
17 referred to can be identified from the document, except as expressly admitted herein,  
18 HUNT denies each and every other allegation contained in Paragraph 57.

19       52. In response to Paragraph 58, HUNT denies each and every allegation  
20 contained therein.

21       53. In response to Paragraph 59, HUNT denies each and every allegation  
22 contained therein.

23       54. In response to Paragraph 60, HUNT denies each and every allegation  
24 contained therein.

25       55. In response to Paragraph 62, HUNT denies each and every allegation  
26 contained therein.

1       56. In response to Paragraph 63, HUNT denies each and every allegation  
2 contained therein.

3       57. In response to Paragraph 65, HUNT denies each and every allegation  
4 contained therein.

5       58. In response to Paragraph 66, HUNT denies each and every allegation  
6 contained therein.

7       59. In response to Paragraph 67, HUNT denies each and every allegation  
8 contained therein.

9       60. In response to Paragraph 69, HUNT denies each and every allegation  
10 contained therein.

11       61. In response to Paragraph 70, HUNT denies each and every allegation  
12 contained therein.

13       62. In response to Paragraph 71, HUNT denies each and every allegation  
14 contained therein.

15       63. In response to Paragraph 72, HUNT denies each and every allegation  
16 contained therein.

17       64. In response to Paragraph 73, HUNT denies each and every allegation  
18 contained therein.

19       65. In response to Paragraph 74, HUNT denies each and every allegation  
20 contained therein.

21       66. In response to Paragraph 75, HUNT denies each and every allegation  
22 contained therein.

23       67. In response to Paragraph 76, HUNT has insufficient information and belief  
24 as to the accuracy of statements contained therein, and on such basis denies each and every  
25 allegation contained therein.

26       68. In response to Paragraph 77, HUNT has insufficient information and belief  
27

1 as to the accuracy of statements contained therein, and on such basis denies each and every  
2 allegation contained therein.

3 69. In response to Paragraph 78, HUNT denies each and every allegation  
4 contained therein.

5 70. In response to Paragraph 79, HUNT denies each and every allegation  
6 contained therein.

7 71. In response to Paragraph 80, HUNT denies each and every allegation  
8 contained therein.

9 72. In response to Paragraph 81, HUNT has insufficient information and belief  
10 as to the accuracy of statements about plaintiffs' discoveries, and on such basis denies each  
11 and every allegation contained therein.

12 73. In further response to Paragraph 81, HUNT denies that the document  
13 referred to as Exhibit "E" was addressed to or received by HUNT, and on such basis denies  
14 each and every allegation contained therein.

15 74. In response to Paragraph 82, HUNT denies each and every allegation  
16 contained therein.

17 75. In response to Paragraph 83, HUNT has insufficient information and belief  
18 as to what appeared reasonable to plaintiffs and on such basis denies each and every  
19 allegation contained in Paragraph 83.

20 76. In response to Paragraph 84, HUNT admits that the notices referenced in  
21 Exhibits "A" and "B" were mailed by certified mail by plaintiffs, but except as expressly  
22 admitted, denies each and every other allegation contained in Paragraph 84.

23 77. In response to Paragraph 85, HUNT has insufficient information and  
24 knowledge to form a belief as to the accuracy of the allegations contained therein because  
25 HUNT does not know what plaintiffs refer to as "related acts and omissions" and on such  
26 basis denies each and every allegation contained therein.

1       78. In response to Paragraph 86, HUNT denies each and every allegation  
2 contained therein.

3       79. In response to Paragraph 88, HUNT denies each and every allegation  
4 contained therein.

5       80. In response to Paragraph 89, HUNT denies each and every allegation  
6 contained therein.

7       81. In response to Paragraph 91, HUNT denies each and every allegation  
8 contained therein.

9       82. In response to Paragraph 92, HUNT denies each and every allegation  
10 contained therein.

11       83. In response to Paragraph 94, HUNT denies each and every allegation  
12 contained therein.

13       84. In response to Paragraph 95, HUNT denies each and every allegation  
14 contained therein.

15       85. In response to Paragraph 96, HUNT denies each and every allegation  
16 contained therein.

17       86. In response to Paragraph 98, HUNT denies each and every allegation  
18 contained therein.

19       87. In response to Paragraph 99, HUNT admits that the parties have duties to  
20 each other, but except as expressly admitted herein, HUNT denies each and every other  
21 allegation contained in Paragraph 99.

22       88. In response to Paragraph 100, HUNT denies each and every allegation  
23 contained therein.

24       89. In response to Paragraph 101, HUNT denies each and every allegation  
25 contained therein.

26       90. In response to Paragraph 102, HUNT has insufficient knowledge or

1 information to respond to paragraph 102, and on such basis denies each and every  
 2 allegation contained in Paragraph 102.

3 91. In response to Paragraph 103, HUNT denies each and every allegation  
 4 contained therein.

5 92. In response to Paragraph 104, HUNT denies each and every allegation  
 6 contained therein.

7 8 AFFIRMATIVE DEFENSES

9 93. As and for a first affirmative defense, HUNT alleges that plaintiffs fail to state  
 10 a claim upon which relief can be granted.

11 94. As and for a second affirmative defense, HUNT alleges that plaintiffs lack  
 12 standing to litigate the claims and counts they assert.

13 95. As and for a third affirmative defense, HUNT alleges that plaintiffs' claims  
 14 are barred, in whole or in part, because plaintiffs have not provided adequate notice and  
 15 did not comply with 33 U.S.C. § 1365(b) or 42 U.S.C. § 6972(b) or both.

16 96. As and for a fourth affirmative defense, HUNT alleges that plaintiffs' claims  
 17 are barred, in whole or in part, because this court lacks subject matter jurisdiction over this  
 18 dispute because there are no ongoing violations on property owned or controlled by this  
 19 answering defendant.

20 97. As and for a fifth affirmative defense, HUNT alleges that plaintiffs' claims are  
 21 barred, in whole or in part, by the applicable statute of limitations, including but not  
 22 limited to 28 U.S.C. § 6462.

23 98. As and for a sixth affirmative defense, HUNT alleges that HUNT should be  
 24 absolved of any and all liability because HUNT is in compliance with all requirements  
 25 imposed by the North Coast Regional Water Quality Control Board, and because  
 26 investigation and cleanup of the property is under the oversite of the North Coast Regional  
 27 Water Quality Control Board.

1           99. As and for a seventh affirmative defense, HUNT alleges that HUNT should  
 2 be absolved of any and all liability because HUNT is in compliance with all requirements  
 3 imposed by the North Coast Regional Water Quality Control Board and because the Court  
 4 should defer to the regulation and oversite of the property by the North Coast Regional  
 5 Water Quality Control Board.

6           100. As and for an eighth affirmative defense, HUNT alleges that plaintiffs' claims  
 7 are barred by the doctrine of *laches*.

8           101. As and for a ninth affirmative defense, HUNT alleges that plaintiffs' claims  
 9 are barred by the doctrine of unclean hands.

10           102. As and for a tenth affirmative defense, HUNT alleges that HUNT was not the  
 11 cause in fact of any threatened or actual releases of hazardous substances or hazardous  
 12 wastes as alleged by plaintiffs.

13           103. As and for an eleventh affirmative defense, HUNT alleges that at the time of  
 14 the incident alleged in plaintiffs' complaint, plaintiffs failed to exercise reasonable and  
 15 ordinary care for their own safety, such as the injuries and damages allegedly sustained by  
 16 plaintiffs were proximately caused or contributed to by plaintiffs' own negligence. More  
 17 specifically, plaintiffs failed to maintain their property free of pollution, hazardous  
 18 substances, or hazardous wastes.

19           104. As and for a twelfth affirmative defense, HUNT alleges that plaintiffs are not  
 20 entitled to the relief requested in the complaint because such relief would work a  
 21 substantial hardship on the defendant relative to the benefit plaintiffs would gain by the  
 22 relief requested.

23           105. As and for a thirteenth affirmative defense, HUNT alleges that plaintiffs  
 24 failed to mitigate their damages.

25           106. As and for a fourteenth affirmative defense, HUNT alleges that the injuries  
 26 asserted by plaintiffs occurred by reason of an upset [force majeure], specifically, a major

storm occurring on the evening of December 31, 2005 - January 1, 2006.

107. As and for a fifteenth affirmative defense, HUNT alleges that plaintiffs have failed to assist and aid defendant to minimize and prevent continuation of the alleged violations at the time of the alleged investigations by plaintiffs by failing to advise HUNT, his agents, representatives, or any person, of the alleged violations and by asserting this matter defendant does not admit any violations, and to contrary denies any and all allegations of any violations.

108. HUNT asserts all applicable defenses pled by any other defendant to this action and incorporates them by this reference.

109. HUNT reserves the right to offer additional defenses, including defenses that cannot now be identified because plaintiffs have not sufficiently described their claims or because HUNT lacks sufficient knowledge and information.

## RELIEF REQUESTED

Defendant WAYNE HUNT respectfully prays for judgment herein as follows:

1. That plaintiffs' request for relief be denied;
2. That this case be dismissed with prejudice;
3. That HUNT be awarded his costs of suit incurred herein;
4. That HUNT be awarded his reasonable attorney's fees and expert fees in defending this suit; and
5. That HUNT be awarded such other and further relief as the Court considers just and appropriate under all the circumstances of this case.

DATED: December 31, 2007

CHRISTOPHER J. NEARY  
Attorney for Defendant  
WAYNE HUNT